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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/372,509	01/13/95	BISKER	D 6819/3

D3M1/0402

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BAHTA-A

1317

DATE MAILED:

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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on _____

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 (three) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☐ Claim(s) 1-3, 7 and 10-31 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) 1-3, 7 and 10-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

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Applicant's response filed 01/16/97 has been evaluated but do not overcome the rejection.

Claims 1-3, 7, 10-31 are before the Examiner.

Claims 1-3, 7, and 10-31 remain rejected as set forth in the last Office Action.

The Applicant argues that the teaching of Travis does not render the claimed invention obvious because the construction of the waterproof wall ornament in Travis does not suggest it be used as a floor tile. Further, that the teaching of Travis involves providing a wall ornament that will withstand the moisture and water environment of a bathtub enclosure, and specifies using a special moisture proof, water resin ink upon a sheet of a synthetic paper and that the synthetic sheet is non-absorbent and highly impervious against penetration by ink, water or other fluids and provides a substrate for imprinting thereon a graphic illustration by offset printing, silkscreen printing or lithography. Said argument is respectfully rebutted as follows: first, the reference to Travis teaches the aspect of providing a full scale photograph or print of a particular selected design for mounting upon a wall of a shower, bathtub, Jacuzzi or Sauna. See column 1, lines 60 - column 2, line 7 and column 2, lines 50-53 and lines 60-64. The Examiner acknowledges that the reference does not specifically mention use of the enlarged photographic print as a floor tile, however it is a common knowledge in the

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prior art to enlarge a photograph print of any design and affix the print in any desired product of virus objects for the purpose of providing an effective way of enhancing visual decor in commercial setting.

Concerning attaching a protective coating to a photograph print is notorious well known step of providing protection the print against scratch, scuff, wear or any other injury. See US Patent 4,125,653 column 4, lines 35-52. Various protective coating are available, thus the skilled person would find it obvious or is capable in selecting such a useful protective material depending where or how the enlarged photograph print is used.

In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgement of obviousness is on a sense necessary a reconstruction based upon hindsight reasoning. But as long as it takes into account only knowledge which was within the level of ordinary skill at the time of the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS

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ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number (703) 308-4412.

A. Bahta

03/31/97


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